

Attorney Docket No.: 01CON247P-CON  
Application Serial No.: 10/806,800

### REMARKS

This is in response to the *Advisory* Office Action of July 14, 2008, after filing a Notice of Appeal, dated September 25, 2008. In the *Advisory* Office Action, the Examiner has rejected claims 30-45. Applicant appreciates the Examiner's time and courteous telephone discussions regarding the pending claims and the cited references. After discussions with the Examiner about the present amendments to independent claims 30 and 38, applicant is submitting the present response after filing the Notice of Appeal in order to place the present claims, as amended, in condition for allowance. An early allowance of outstanding claims 30-45 in view of the following remarks is requested.

#### A. Rejection of Claims 30-32, 38-40, 46-48 and 50-52 under 35 USC § 103(a)

The Examiner has rejected claims 30-32, 38-40, 46-48 and 50-52, under 35 USC § 103(a), as being unpatentable over Farris, et al. (USPN 6,438,218) ("Farris") in view of Vaziri, et al. (USPN 6,377,570) ("Vaziri").

By the present amendment, applicant has amended independent claim 30 to recite "harmonizing a set of data link parameters supported by said first gateway modem with said first set of data link parameters and said second set of data link parameters to determine a final set of data link parameters supported by all of said first client modem, said first gateway modem, said second gateway modem and said second client modem, wherein said harmonizing said set of data link parameters supported by said first gateway with said first set of data link parameters supported by said first client modem is performed by exchanging XID frames between said first gateway modem and said first client modem." As discussed with the Examiner, applicant respectfully submits that the cited references fail to disclose, teach or suggest that "a final set of

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data link parameters” is determined that is “supported by all of said first client modem, said first gateway modem, said second gateway modem and said second client modem.” Even more, as requested by the Examiner, applicant has amended independent claim 30 to further describe “harmonizing” by reciting that “harmonizing said set of data link parameters supported by said first gateway with said first set of data link parameters supported by said first client modem is performed by exchanging XID frames between said first gateway modem and said first client modem.” Applicant respectfully submits that cited references further fail to remotely disclose, teach or suggest such limitations, because, at least, any alleged harmonization disclosed by the cited references does not occur at the modem layer of the communication system.

Accordingly, applicant respectfully submits that claim 30 should be allowed. Further, claims 30-32 depend from claim 30, and should be allowed at least for the reasons stated above. It is respectfully submitted that independent claim 38 includes limitations similar to those of claim 30. Therefore, independent claim 38, and its respective dependent claims 39-40, should also be allowed at least for the reasons stated above.

**B. Rejection of Claims 33 and 41 under 35 USC § 103(a)**

The Examiner has rejected claims 33 and 41, under 35 USC § 103(a), as being unpatentable over Farris in view of Vaziri.

Applicant respectfully submits that claims 33 and 41 depend from claims 30 and 38, respectively, and should be allowed at least for the reasons stated above in conjunction with patentability of claims 30 and 38.

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**C. Rejection of Claims 34 and 42 under 35 USC § 103(a)**

The Examiner has rejected claims 34 and 42, under 35 USC § 103(a), as being unpatentable over Farris in view of Vaziri, and further in view of Endo (USPN 6,381,038) ("Endo").

Applicant respectfully submits that claims 34 and 42 depend from claims 30 and 38, respectively, and should be allowed at least for the reasons stated above in conjunction with patentability of claims 30 and 38.

**D. Rejection of Claims 35-37 and 43-45 under 35 USC § 103(a)**

The Examiner has rejected claims 35-37 and 43-45, under 35 USC § 103(a), as being unpatentable over Farris in view of Vaziri and Endo, and further in view of Davis, et al. (USPN 6,049,902) ("Davis").

Applicant respectfully submits that claims 35-37 and 43-45 depend from claims 30 and 38, respectively, and should be allowed at least for the reasons stated above in conjunction with patentability of claims 30 and 38.

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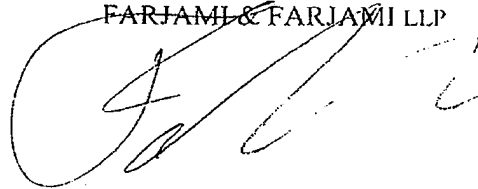
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**E. Conclusion**

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Based on the foregoing reasons, an early Notice of Allowance directed to all claims 30-45 pending in the present application is respectfully requested.

Respectfully Submitted,  
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